

Debt in Estates - The Banking Perspective

STEP Annual Conference
May 28, 2010

Harry McIntyre
harrymcintyre@gmail.com
+ 353 86 170 5394

Why are Irish banks in such turmoil?

- NAMA workload
- Funding difficulties
- Heavy regulator oversight
- Balance sheet re-building
- Low staff morale
- New boards and management

Key Items to consider before contacting a bank

- The benefits of using specialist advisors
- If the loan is distressed, what are the precise reasons and is the bank aware of them?
- What is known about the current attitude/approach of the particular bank?
- Thorough analysis of all loan documentation
- Should the borrower be contacting the bank at all?

Loan Documentation - What are you looking for?

- **Cross Collateralisation**
- **Cross Default**
- **Set Off**
- **Financial Covenants**
- **Guarantees**
- **Correspondence/other records**

Events which may cause a 'bank initiated' renegotiation

- Facility has expired
- A 'demand' facility is demanded
- A breach of the terms and conditions of loan and/or security agreements

Types of Default

- **Monetary**
- **Non-Monetary**

Preparation for the Meeting with the Bank

- Updated financial information
- Prepare and prioritise the 'shopping list' and anticipate the bank's shopping list
- How well (if at all) does the borrower know the individuals he will be meeting?
- Rehearse!

Shopping List: The Borrower

- Time
- Margin
- Additional Security
- Financial Covenants

Shopping List: The Bank

- Capital repayments
- No interest roll ups
- Increased margin
- Shorter renewal periods
- Additional security
- Is the borrower prepared to work with the bank and willing to sell assets?
- Is everybody sharing the pain?
- Cash flow

Tactics during the Meeting

- Keep to your shopping list
- Don't agree anything material at the meeting
- Don't get angry
- Create the right 'perception'

Issues Surrounding Asset Transfers

- Non home loan debt
- Other asset types

Conclusion

- Convince the borrower of the benefit of using professional advisors
- Know the borrower's rights and obligations under the documentation, i.e. do solid analysis
- Know the present policy and approach of the bank
- Ensure that the borrower prepares a 'shopping list'
- Make a case which is based on business rationale, i.e. avoid irrelevant historical issues and keep emotion out of it
- Emphasise the importance of planning the tactics for any key meetings with the bank